CORRECTED COPY

IN THE

Supreme Court of the United States

OCTOBER TERM, 1978

No. 78-253; 78-282; 78-283

NOLAN ESTES, et al.,

Petitioners,

—versus—

OAK CLIFF BRANCH, SOUTH DALLAS BRANCH and JOHN F. KENNEDY BRANCH of the Metropolitan Branches of Dallas, NAACP,

Respondents,

and

RALPH F. BRINEGAR, et al.,

Petitioners,

—versus—

OAK CLIFF BRANCH, SOUTH DALLAS BRANCH and JOHN F. KENNEDY BRANCH of the Metropolitan Branches of Dallas, NAACP,

Respondents,

and

DONALD R. CURRY, et al.,

Petitioners,

—versus—

OAK CLIFF BRANCH, SOUTH DALLAS BRANCH and JOHN F. KENNEDY BRANCH of the Metropolitan Branches of Dallas, NAACP,

Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

BRIEF OF NAACP RESPONDENTS

NATHANIEL R. JONES
1790 Broadway
New York, New York 10019

E. BRICE CUNNINGHAM
Cunningham, Greenidge & Gaines
2606 Forest Avenue
Suite 216-219
Dallas, Texas 75215

MERLE W. LOPER
246 Deering Avenue
Portland, Maine 04102

Attorneys for Respondents-Intervenors

Of Counsel:

LOUIS R. LUCAS
Ratner, Sugarmon, Lucas, Salky & Henderson
625 Commerce Title Building
Memphis, Tenn. 38103

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases:

IN THE

Supreme Court of the United States

OCTOBER TERM, 1978

No. 78-253; 78-282; 78-283

NOLAN ESTES, et al.,

Petitioners,

—versus—

OAK CLIFF BRANCH, SOUTH DALLAS BRANCH and JOHN F. KENNEDY BRANCH of the Metropolitan Branches of Dallas, NAACP,

Respondents,

and

RALPH F. BRINEGAR, et al.,

Petitioners,

—versus—

OAK CLIFF BRANCH, SOUTH DALLAS BRANCH and JOHN F. KENNEDY BRANCH of the Metropolitan Branches of Dallas, NAACP,

Respondents,

and

DONALD R. CURRY, et al.,

Petitioners,

—versus—

OAK CLIFF BRANCH, SOUTH DALLAS BRANCH and JOHN F. KENNEDY BRANCH of the Metropolitan Branches of Dallas, NAACP,

Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

BRIEF OF NAACP RESPONDENTS

Questions Presented

1. Whether a school desegregation plan for a district that was found to be segregated by state law, and that has never yet eliminated its racially dual system, is adequate when it fails to make any significant effort to desegregate the student enrollment in its high schools, its early elementary schools, or any of the schools in a virtually all-black sub-district, except through provision for voluntary transfers and a partial system of magnet-type schools?

2. Whether the Court of Appeals properly exercised its appellate review by remanding the District Court's order because it failed to either eliminate or expressly justify the large number of one-race schools under the Dallas desegregation plan?

Summary of Argument

I.

The projected operation of the Dallas desegregation plan implemented under the District Court's order shows such a substantial degree of continuing segregation in student enrollment and such a large number and high proportion of one-race schools—at least 70 out of 172—as to make it necessarily inconsistent with the disestablishment of Dallas' previously state-imposed racially dual system.

The failure of the plan to achieve substantial desegregation of the high schools, early elementary schools, or any of the schools of the East Oak Cliff sub-district is in sharp contrast to the significant desegregation that is achieved in grades four through eight in the areas outside the all-black East Oak Cliff sub-district. This contrast highlights the fact that the same desegregation techniques that have been effective in grades four through eight are available as feasible remedies for the state-imposed segregation in the other grade levels and areas of the school district in the absence of any findings as to their infeasibility in specific instances.

The reason for the lack of effective desegregation in the high schools and the East Oak Cliff area is that the pattern of initial segregated student assignments is maintained and the opportunities for desegregation rest solely on what is basically a transfer policy—majority-to-minority transfers and transfers to magnet schools. These techniques in themselves have long been held impermissibly inadequate to dismantle the continuing effects of a dual system of student enrollment. Much the same is true of the nature of the failure to desegregate the early elementary grades, except that in those grades the magnet-type schools are not even included as a supplementary desegregation device.

Desegregation in these aspects of the Dallas school system has been essentially written off by the District Court without any sufficient justification and without focussing specifically enough on particular questions of the feasibility of using the kinds of techniques approved in *Swann* and used with effectiveness in other aspects of the Dallas plan itself. Rather, the district court assumed that white students would not attend minority schools, or in general terms assumed the techniques were not workable or would interfere with certain educational objectives. All of these reasons are either impermissible or based upon assumptions that were not clearly spelled out or established.

The Dallas system of dual attendance has not yet been effectively disestablished since the time it was mandated by state law. The Court of Appeals' remand is necessary in order to focus the attention of the school officials on the remaining task and require them and the District Court to look more closely at the feasibility of using the *Swann* techniques to effectively enforce the constitutional rights of minority students to attend public schools in a nonracial, unitary system.

II.

In remanding this case for consideration of a new plan and for specific findings concerning the infeasibility of eliminating any remaining substantially one-race schools, the Court of Appeals was properly insisting on adherence to the decisions of this Court. This is a proper and important function of the courts of appeals and a part of the particular tradition of the Court of Appeals for the Fifth Circuit. To fail to affirm the Court of Appeals in this case would seriously undermine the function of that court and its role in our federal judicial system.

Responsible appellate review of the district court order in this case could have led only to the remand of this plan in light of the standards previously set by this Court, and the clear disregard of those standards by the District Court.

ARGUMENT

I.

The Dallas Desegregation Plan Is Facially Inadequate to Eliminate Segregated Student Enrollments in a School System That Was Segregated by State Law and That Has Never Yet Been Brought Into Constitutional Compliance by Achieving a Non-Racial, Unitary School System.

A. *The Projected Operation of the District Court's Desegregation Plan Shows That It Will Not Dismantle the Dual System of Racially Identifiable Schools as Required by This Court's Prior Decisions and to the Extent That the Plan Itself Shows Is Practical and Feasible in Dallas.*

The two basic facts that most boldly stand out in this case are the contrasting degrees to which the District Court's desegregation plan both fails and succeeds in desegregating student enrollment at different levels of the Dallas school system.

For those grade levels and areas where no real attempt is made to desegregate the regular attendance area schools —the high schools, the early elementary schools (K-3), and the entire all-black East Oak Cliff sub-district—the continuing segregation is stark. Based on the projections attached to the District Court's April 7, 1979 Final Order (Estes Pet. for Cert. 53a, at 85a-119a) and subsequent modifications (*Id.* at 121a-129a), over 83 percent (40 out of 48) of the early elementary schools (K-3),[1] and 50 percent (9

[1] These figures for the K-3 grade schools necessarily include only those schools which contain *only* grades K-3 since those are the only schools for which racial and ethnic enrollment projections were furnished under the district court's plan. Many K-3 grades are combined with 4-6 grade intermediate schools, for which racial and ethnic enrollments are given in grades 4-6, but not in grades K-3. Since the intermediate schools were to be largely desegregated

out of 18) of the regular attendance area high schools,[2] are one-race or virtually one-race schools whose student bodies are comprised of approximately 90 percent Anglo or 90 percent minority students.[3] Even when the all-black East Oak Cliff sub-district is omitted from these figures, the degree of segregation, as measured by the proportion of one-race schools in the four "racially proportioned" sub-districts, is not significantly changed—82 percent (36 out of 44) of the separate K-3 schools and 44 percent (7 out of 16) of the regular attendance area high schools. In the East Oak Cliff sub-district, all four of the K-3 schools, all four of the 7-8 middle schools, both of the regular attendance area high schools, and 15 of the 16 intermediate schools (grades 4-6)[4] were expected to have at least 98 percent mi-

under the plan, but the early elementary grades were not, the figures for the 4-6 grades bear no relationship to the racial composition of the K-3 student body in the same school.

[2] These include all the senior high schools of grades 9-12 based on the projected enrollments in the District Court's Final Order which were intended to be the comprehensive high schools for their respective specified neighborhood attendance areas. Magnet high schools with specialized programs (for which no reliable racial and ethnic enrollments were, or could reliably be, given) are not included. Any integration that might occur in the magnet high schools themselves would not significantly affect the over-all amount of high school desegregation achieved, and would itself have no affect on the racial composition of the regular attendance area high schools.

[3] This definition is the same as that used by the Court of Appeals in this case, in which it defined a one-race school as "a school that has a student body with approximately 90% or more of the students being either Anglo or combined minority races," but with an admonition that "the 90% figure is not a 'magic level below which a school [will] no longer be categorized as "one-race."'" *Tasby* v. *Estes*, 572 F.2d 1010, 1012, n. 3 (5th Cir. 1978). Estes Pet. for Cert. 132a. In compiling the figures in this Brief, the actual cut-off point used was 88 percent Anglo or minority.

[4] One of the 15 black intermediate schools, Maynard Jackson, was designated as a Vanguard school with 300 student stations reserved for integration purposes. According to the DISD's December 15, 1976 Report to the District Court, the Jackson School

nority enrollment. In fact, all of these East Oak Cliff one-race schools are at least 89 percent black, and all but two of them are at least 97.5 percent black. Estes Pet. for Cert. 113a-117a.

By contrast, however, the District Court's plan did show the promise of largely eliminating at least the 90 percent or more Anglo or minority school enrollments in those grade levels and areas where it tried to do so. Based again on the projections attached to the District Court's Final Order (Estes Pet. for Cert. 85a-111a), none of the middle schools (grades 7-8) and only two[5] of the 66 intermediate schools (grades 4-6) contain approximately 90 percent or more minority or Anglo enrollments in those sub-districts aside from East Oak Cliff.[6] These are the grade levels and areas

was 98.8 percent black during the first year of the plan. The most recent DISD Report to the District Court (April 1979) shows that Jackson remains as a one-race schol with 98.3 percent black enrollment.

[5] The K. B. Polk School in the Northwest sub-district is not included in these figures as a one-race intermediate school despite the fact that its projected and actual present status are somewhat unclear in the Record. In the April 7, 1976 District Court order Polk was projected to have a totally black enrollment except for the reservation of 300 student stations for integration under the Vanguard concept. Estes Pet. for Cert. 86a. The DISD's April 1979 Report to the District Court indicates a Vanguard enrollment of 119 students, of whom 66 percent are Anglo. The Report also indicates that the total intermediate enrollment (grades 4-6) is 272. Thus, there appear to be 152 non-Vanguard students in grades 4-6 at the Polk School, all of whom are minority students. It thus appears that Polk has a regular intermediate program that is all-minority and a Vanguard program that is majority Anglo. The K-3 grades are virtually all-black, as reflected in the figures of the DISD's April 1979 Report.

[6] Seagoville, the only predominantly Anglo sub-district, is essentially omitted from the plan. None of the grade structures for its four schools are conformed to the standardized grade structures of the rest of the school district. Racial and ethnic enrollment comparisons at the standardized grade levels are therefore not available, and the four Seagoville schools cannot be included in the above figures.

where the plan specifically assigns students for the purpose of dismantling the segregated student enrollment patterns that mark schools as "Anglo" or "black" or "Hispanic"—schools which had remained so marked in Dallas ever since segregation was initially mandated by the statutes of Texas. *Bell* v. *Rippy*, 146 F.Supp. 485, 487 (N.D. Tex. 1956); *Tasby* v. *Estes*, 342 F.Supp. 945, 947 (N.D. Tex. 1971), *revd. on other grounds*, 517 F.2d 92 (5th Cir. 1975), *cert. den.* 423 U.S. 939 (1975).

The difference between the failure and the effectiveness of the plan shows itself in two ways: (1) by comparing the decreased number of clearly one-race schools in grades 4-8 with the high degree of remaining segregation of the grade levels immediately above and below them in the very same districts, and (2) by comparing the almost total segregation remaining in the East Oak Cliff sub-district, where no significant desegregation attempt was even made, with the deceased number of clearly one-race schools in grades 4-8 in those districts where the attempt was made. The differences are more graphically illustrated in the table on the next page.

Sub-Dist.	Grades K-3			Grades 4-6			Grades 7-8			Grades 9-12		
	No. of Schls.	No. of 1-Race Schls.	% of 1-Race Schls.	No. of Schls.	No. of 1-Race Schls.	% of 1-Race Schls.	No. of Schls.	No. of 1-Race Schls.	% of 1-Race Schls.	No. of Schls.	No. of 1-Race Schls.	% of 1-Race Schls.
N.W.	19	16	84%	16	0	0%	5	0	0%	5	3	60%
S.W.	27	2	100%	26	1	4%	5	0	0%.	4	0	0%
N.E.	13	12	92%	15	1	7%	3	0	0%	4	2	50%
S.E.	10	6	60%	9	0	0%	3	0	0%	3	2	67%
	—	—		—	—		—	—		—	—	
Total	44	36	82%	66	2	3%	16	0	0%	16	7	44%
East Oak Cliff	4	4	100%	16	15	94%	4	4	100%	2	2	100%

[7] All but two of the K-3 schools in the Southwest sub-district are combined with the 4-6 grades in the same respective schools, so that the figures for this district are not necessarily representative. Of the 26 schools in that sub-district, which combine grades K-6, only 2 were 90 percent or more Anglo or minority at the time of the DISD's Report to the Court on December 1, 1975. These figures are included in the DISD's "Answers to Interrogatories (First Set) of Strom, et al, Intervenors," which is a part of the Record in this Court as Exhibit "M" from the 1975-1976 District Court Hearings.

The degree of effectiveness in eliminating 90 percent Anglo and minority enrollments in grades 4-8 where the attempt was made, makes the overall number and proportion of one-race schools in Dallas even more questionable. Based on the racial and ethnic enrollment figures that are given as projections in the District Court's April 7, 1976 Final Order for those schools for which the statistics are available, 70 out of 172 schools in the DISD are all or predominantly one-race schools—41 percent. Of the 53,351 black students who were projected to be enrolled in those schools, 34,150—64 percent—were projected as enrolled in schools with approximately 90 percent or more minority enrollment.

Such statistics on one-race schools cannot, of course, tell the entire story of a school desegregation plan. The need to define one-race schools by a cut-off point—90 percent or 88 percent—can itself mask a large number of other essentially one-race schools that may lie just below the cut-off point. For example, the four early elementary schools (K-3) in the Southeast sub-district are all virtually segregated white schools having between 85 and 87.4 percent Anglo student bodies. Estes Pet. for Cert. 99a. If these were counted as one-race schools, the proportion of one-race schools for separate K-3 schools in the Southeast sub-district would be 100 percent rather than 60 percent. This illustrates the importance of going beyond the one-race school statistics to examine the actual amount of desegregation in various school enrollments.

Another problem is the lack of racial or ethnic statistics for the projected enrollments of those K-3 schools that are included within a K-6 school. Since the one-race schools in grades 4-6 have been largely eliminated by student assignments under the plan (except for East Oak Cliff), but similar techniques have not even been attempted for grades K-3, one would expect that many of the K-3 grades may

represent one-race schools for those grades even though included within one school along with the desegregated intermediate grades (4-6).

This problem can be illustrated by the Reilly School (K-6) in the Northeast sub-district. This school was at first designated in the plan as a separate K-3 school with a 92.9 percent Anglo enrollment (Estes Pet. for Cert. 92a). A later modification of the plan corrected its designation to that of a K-6 school, showing its enrollment for grades 4-6 as 55.8 percent Anglo and 44.2 percent minority—an apparently integrated intermediate school. Estes Pet. for Cert. 123a. It is only because of the initial misdesignation of the Reilly School as a separate K-3 school that the Record indicates the one-race nature of the early elementary grades in what otherwise appears to be a desegregated school. Similar information is not available for the other K-3 grades where they are included in a full K-6 elementary school.

While all of these statistics cannot tell the full story, they do point clearly to the fact that the state-mandated patterns of segregated student enrollment have not yet been dismantled. This is particularly true where the failure—in the high schools and early elementary schools and in the maintenance of an entire all-black sub-district—lies side-by-side with a demonstration of the possibility that desegregation *can* be made effective in the same grade levels and in the same sub-districts where those failures occurred because the same techniques were never tried.

Dallas clearly has not converted its dual system "to a system without a 'white' school and a 'Negro' school, but just schools." *Green* v. *County School Board*, 391 U.S. 430, 442 (1968); cf. *Swann* v. *Charlotte-Mecklenburg Board of Education*, 402 U.S. 1, 26, *reh. denied* 403 U.S. 912 (1971). At the very least, these figures demand the closer scrutiny

and justification that the Court of Appeals required in this case.

B. *Effective Desegregation Techniques Are Available and Required in Order to Achieve a Non-Racial Unitary System Throughout the DISD.*

The amount of continuing segregation in the Dallas school system shows the failure of the plan, as projected, to eliminate the dual school attendance patterns in the district. The particular areas of failure under the Dallas plan are constitutionally inadequate both because they rely solely upon out-dated desegregation techniques that may have sufficed at an earlier time as the "first steps" toward a desegregated system but are wholly inadequate today, and because they ignore effective techniques that are working in neighboring areas of the district or in neighboring grade levels of the Dallas system itself. The early elementary schools, all of the regular attendance area high schools, and the East Oak Cliff sub-district have been automatically written off. The fear that desegregation will cause "white flight" and that "white flight" will cause more segregation is used as an excuse to avoid desegregation in the first place. Efforts to achieve greater desegregation may well also be hampered by the fact that the integrative student assignments that *are* made are always from black and Hispanic areas toward Anglo areas, and never the other way around.

It is little wonder that the Court of Appeals found itself unable to approve the District Court's plan in the absence of specific findings concerning the feasibility of alternative and more effective means of desegregation.

1. The Senior High Schools.

One of the most difficult things to understand about the Dallas plan is its failure to carry the intermediate and middle school desegregation into the high schools. The

feasibility of using the elementary school attendance areas as a basis for assigning students to grades 4-8 to effectively achieve desegregation is demonstrated by the plan itself. Yet, for some unexplained reason, students who have been assigned to integrated schools for the fourth through the eighth grades are then dropped back into their neighborhood high schools, half of which are one-race schools.

Black and Hispanic students, for instance, who make up the C.F. Carr elementary attendance area in west central Dallas are assigned to the Burnet School in northern Dallas for grades 4-6, then farther north to the Walker School for grades 7-8. Estes Pet. for Cert. 87a, 89. Upon completion of the eighth grade, however, they return to their neighborhood Pinkston High School, which has a 95 percent minority enrollment. Estes Pet. for Cert. 90a. It takes more information than appears on the Record before this Court to see why it would not be feasible to give these students an integrated education at Hillcrest or W.T. White High Schools, both of which have a 96 percent Anglo enrollment, both of which are within the same general area and distance range as the schools at which the Carr students spent grades 4-8, and the first of which appears to have an enrollment of only 70 percent of its capacity (Pet. for Cert. 90a). Alternatively, there is no apparent reason why Anglo students in the areas where the Carr students attended grades 4-8 could not be brought down to Pinkston High School for an integrated education with the Carr students.

This same basic situation occurs time after time under the present Dallas plan. Minority students are assigned out of central and west central Dallas to integrated intermediate schools and middle schools for grades 4-8, and then sent back to segregated schools for their last four years. The following chart traces the progression of students in

such situations, showing the racial and ethnic composition for the K-3 attendance area (measured by the percentage of minority enrollment) and for each of the schools those students would attend through their graduation from high school:

K-3 Sch. & % Minority		Inter. Sch. & % Minority		Middle Sch. & % Minority		High Sch. & % Minority	
Carr	99%	Burnet	48%	Walker	48%	Pinkston	95%
Allen	91%	Caillet	60%	March	45%	Pinkston	95%
		Marcus	60%				
Arlington Park	98%	Caillet	60%	Rusk	44%	N. Dallas	83%
Carver/	99%	Foster	51%	Walker	48%	Pinkston	95%
Tyler	100%	Pershing	60%				
		Walnut H.	41%				
Earhart/	100%	Longfellow	54%	Cary	48%	Pinkston	95%
Navarro	100%	Williams	58%	Marsh	45%		
Travis	98%	Preston Hollow	59%	Spence	77%	N. Dallas	83%
Hassell	100%	Bayles	46%	Gaston	43%	Madison	100%
Brown	100%	Conner	44%	Gaston	43%	Madison	100%
		Truett	47%				
City Pk.	96%	Lakewood	38%	Gaston	43%	Madison	100%
Colonial	100%	Reinhardt	42%	Gaston	43%	Madison	100%
Frazier	100%	Rowe	47%	Hood	40%	Madison	100%
Wheatley	100%	Sanger	46%	Hill	39%	Madison	100%
Harris	100%	Sanger	46%	Hill	39%	Madison	100%
Rice	100%	Reilly	44%	Hill	39%	Lincoln	100%
Thompson	100%	Ireland	37%	Florence	41%	Lincoln	100%
		J. Adams	42%				
Rhoads	100%	San Jacinto	49%	Hood	40%	Lincoln	100%
Dunbar	100%	Hawthorne	42%	Florence	41%	Madison	100%
		Blanton	43%				
Buckner	88%	Rylie	43%	Comstock	41%	Spruce	28%
		Burleson	42%				
		Dorsey	46%				

(The above information is taken from the District Court's Final Order, April 7, 1976, and subsequent modifications, as set forth in the Estes Pet. for Cert., at 85a-105a, 123a-124a, and 127a-129a.)

In all of these situations students are assigned to fourth through eighth grade schools outside their ordinary segregated neighborhood attendance areas and substantial desegregation is achieved. In every case, except for the last one listed, they are brought back to segregated high schools. It does not appear that the routes to integrated high schools would be any longer or less feasible than those already travelled to intermediate and middle schools. High school students should be at least as capable of participating in such a program as students of elementary and junior high school age. The building capacities seem to be generally available at the high school level (Estes Pet. for Cert., 90a, 97a, 104a), and even where present building capacities appear to be full, students could be exchanged without causing over-capacity problems.

The District Court's only findings to justify the omission of desegregated student assignments at the high school level did not go to the feasibility of the transportation involved, or to any lack of a constitutional requirement to desegregate them. Rather, the District Court concluded that such assignments would not work because Anglos would not go to minority schools. Estes Pet. for Cert. 34a.

The real reason for avoiding regular high school assignments on a non-segregated basis thus appears to be that white students do not want desegregation, at least if it means that they must attend schools that minority students have to attend, in areas where minority students have to go to school. This approach is constitutionally impermissible. It allows the constitutional rights of minority students to be defeated because of speculation about the feelings of white students. To make these minority rights dependant upon the cooperation of white students is itself racially discriminatory. This Court has long held that the vindication of constitutional rights cannot be avoided because of

disagreement with those rights. *Brown* v. *Board of Education II*, 349 U.S. 294, 300 (1955); *Cooper* v. *Aaron*, 358 U.S. 1 (1958); *Monroe* v. *Board of Commissioners*, 391 U.S. 450, 459 (1968).

In *Monroe* the District Court had approved a desegregation plan that assigned students to schools on an initially desegregated basis, but allowed them freely to transfer back to their original segregated schools. The free transfer plan was defended as necessary to prevent "white flight" and preserve the public school system. In holding such a plan invalid as a device that in fact prevented the desegregation that is required by the Constitution, this Court stated:

> [N]o attempt has been made to justify the transfer provision as a device designed to meet "legitimate local problems," . . . rather it patently operates as a device to allow *resegregation* of the races to the extent desegregation would be achieved by geographically drawn zones. Respondent's argument in this Court reveals its purpose. We are frankly told in the Brief that without the transfer option it is apprehended that white students will flee the school system altogether. "But it should go without saying that the vitality of these constitutional principles cannot be allowed to yield because of disagreement with them." *Brown II*, at 300.

Monroe v. *Board of Commissioners*, 391 U.S. 450, 459 (1968).

The failure of the District Court to require any meaningful desegregation in one-half of the regular attendance area high schools in Dallas is comparable to the *Monroe* plan of making initial desegregated assignments and allowing everyone to transfer back. The difference is that in Dallas no initial desegregated assignments are made, so there is no need to transfer back. The essential similarity between the *Monroe* and Dallas plans is the purpose—and that purpose has been held to be impermissible since it forecloses that possibility of desegregation from the outset.[8]

The District Court depreciated the importance of integrated high school assignments for minority students because of the opportunities to attend magnet schools or to take advantage of the majority-to-minority transfers. Estes Pet. for Cert. 35a. The fact of the matter is that the entire high school desegregation plan rests solely upon the magnet school concept and majority-to-minority transfers, which the District Court found to be the more practical and effective way to achieve high school desegregation. Estes Pet. for Cert. 35a.

In reality, high school desegregation in Dallas is based on a transfer system, and one that is less exacting and contains none of the safeguards of the freedom of choice desegregation devices that became obsolete at the time of *Green* v. *County School Board*, 391 U.S. 430 (1968). It is less than the old free choice plans because the initial assignments are made by the school system to segregated schools and students are allowed to transfer out on the basis of certain criteria—to attend a magnet school for special pro-

---

[8] While the District Court purported to recognize that the *Brown II* "disagreement principle" applies to the fear of "white flight," and purported not to base its high school plan on findings of fact from any of the sociological evidence in this case concerning the effects of "forced busing" on white flight" (Estes Pet. for Cert. 43a, fn. 50), the court's citation to *Mapp* v. *Board of Education*, 525 F.2d 169 (6th Cir. 1975), *reh. den.* 527 F.2d 1388, *cert. den.* 427 U.S. 911, might suggest otherwise. Whatever might be said about the *Mapp* case, the plan in Dallas shows that desegregation cannot be achieved by avoiding it. The two schools in *Mapp* that became segregated because of non-attendance by the white students who had been assigned there were certainly no more segregated than the all-black Lincoln, Madison, Roosevelt, and South Oak Cliff High Schools, or the other one-race high schools in Dallas whose desegregation has been sacrificed by the District Court to the unsubstantiated fear of "white flight."

grams of interest to them, or to attend a school where their racial or ethnic proportion in the student body is less than in the school system as a whole. Compare *United States* v. *Jefferson County Board of Education,* 372 F.2d 836, 890-891 (5th Cir. 1966), adopted on rehearing *en banc,* 380 F.2d 385 (5th Cir. 1967), *cert. den.,* 389 U.S. 840.

Nor does the magnet school concept offer any realistic promise of ever effectively desegregating the high schools of Dallas, let alone do it now. The magnet schools involve only a small proportion of the high school population. They have no effect whatever on bringing integration into the regular attendance area high schools where the vast majority of the student population attends.[9] The use of magnet schools can have excellent educational value. They can play a role in helping to create and maintain a system of integrated student enrollment. But magnet schools, as they exist in Dallas, cannot begin to do the whole job of desegregation all by themselves.

In summary, the high school aspect of the desegregation plan is essentially a lost opportunity to use methods that the defendants are using successfully to achieve desegregation in earlier grade levels. It is based apparently on the assumed reluctance of white students to go to desegregated

[9] There may also be some question about the nature of the integration that occurs in a school with a magnet-type program. As pointed out in footnote 5, the April 1979 DISD Report to the District Court concerning enrollment in the Polk Intermediate Vanguard School (grades 4-6), shows that there are 152 regular program students and 119 Vanguard program students. The regular program students are all minority, while the Vanguard program is substantially integrated. While the exact nature of the operation of this program is not clear on the Record before this Court, it appears that the magnet-type programs may not actually integrate the *school* generally, but only the particular magnet program that exists within the school. To the extent that this is true in the magnet-type programs, the desegregating effectiveness of such programs is further reduced.

schools. It operates as an inadequate freedom of choice plan with no real prospect of significantly desegregating the high school student enrollment system generally. It is hard to see how the Court of Appeals could have done other than reject it in the absence of specific consideration and findings that the more effective desegregation devices that are apparently available are not feasible.

2. The Early Elementary Schools (K-3).

The major reasons given by the District Court for leaving the segregated enrollment untouched in the early elementary grades were the lesser ability of young children to deal with the problems of transportation, the special programs in the minority areas that were presumed to result in higher quality education for minority students there, and the opportunity to use the diagnostic-prescriptive concept in the early childhood learning centers with parental involvement. On this basis, the District Court provided for attendance in grades K-3 in the local area around each such elementary school, modified only by the opportunity for majority-to-minority transfers. Estes Pet. for Cert. 32a-33a, 51a-55a.

The result is a highly segregated pattern of early elementary school enrollments. As shown by the chart on page 9, *supra,* 36 of the 44 separate K-3 centers (82%) are one-race schools even when only the four "racially proportioned" sub-districts are considered—that is, not including the all-black East Oak Cliff sub-district, or the Seagoville sub-district in which no separate K-3 centers exist. Indeed, in three of the sub-districts[10] almost all of the separate early elementary schools are of one race—16 out of 19 in

[10] The figures for the Southwest sub-district are less conclusive because only two separate K-3 schools exist there. That sub-district is also one of the more integrated areas of Dallas.

the Northwest, 12 out of 13 in the Northeast, and at least 6 out of 10 in the Southeast.

While the age of students is one of the important factors in determining the feasible limits on the time and distance of travelling to school, *Swann* v. *Charlotte-Mecklenburg Board of Education,* 402 U.S. 1, 31 (1971), it was not intended to be a reason for precluding such transportation altogether when that is necessary to desegregate a school system. Surely, the value of an integrated education is a factor that also must weigh heavily in the balance of "legitimate local problems," *Monroe* v. *Board of Commissioners,* 391 U.S. 450, 459 (1968). Yet, the District Court merely cited the age of such students generally as an excuse for totally avoiding desegregation of these crucial grade levels.

The court made no findings of fact that would show the infeasibility of some meaningful degree of school pairing. Nor did it consider the possibility of transportation distances that might be well within the ability of younger children to deal with. Much more careful and individualized consideration of these factors should be required in light of the everyday busing of large numbers of such children throughout our country. It would no doubt come as a surprise to the millions of parents in both urban and rural areas to learn that their young children are being harmed by being transported to consolidated elementary schools or special schools miles from their homes for purposes unrelated to desegregation.[11] Indeed, the objection was not

[11] "Bus transportation has been an integral part of the public education system for years, and was perhaps the single most important factor in the transition from the one-room schoolhouse to the consolidated school. Eighteen million of the Nation's public school children, approximately 39%, were transported to their schools by bus in 1969-1970 in all parts of the country." *Swann* v. *Charlotte-Mecklenburg Board of Education,* 402 U.S. 1, 29 (1971).

raised in earlier times when both white and black children of all ages were being bused for long times and great distances, often past schools of the opposite race, in order to keep them *apart.* Clearly, considerations of young age in determining how far a child should travel to school cannot legitimately be used to *preclude* all serious consideration of *any* desegregating school assignment at all.

Likewise there is no finding that the educational concepts and programs that are desired in these early years could not be carried out as well under a system of integration. As to the District Court's reliance on special programs for a higher quality of education, it should go without saying that such programs are not sufficient substitutes for eliminating dual systems of student enrollment. This has been true ever since *Brown* v. *Board of Education,* 347 U.S. 483 (1954), overruled *Plessy* v. *Ferguson,* 163 U.S. 537 (1896).

The complete writing-off of desegregation in the early elementary schools is further illustrated by the fact that the magnet-type school concepts that are used in the Vanguard, Academy and magnet-schools in the other grade levels of Dallas apparently play no real part as a supplementary tool to desegregate grades K-3.

3. The East Oak Cliff Sub-District.

The District Court's treatment of the virtually all-black East Oak Cliff sub-district is similar to its treatment of the high school grade levels: it created an aspect of the system that remains initially highly segregated and then relied solely on a transfer system—to magnet schools or by majority-to-minority transfers—as the only means of achieving any desegregation. This approach is constitutionally inadequate in East Oak Cliff for the same reasons that it is inadequate in the high school levels generally.

Because of the heavy concentration of black population within East Oak Cliff, there may well be greater difficulties in substantially desegregating that area than exist in other geographical areas of the city. The fact does not, however, justify writing off the entire district without more strictly scrutinizing the possibilities for achieving desegregation through regular student assignments to integrated schools, complemented by the other appropriate special education programs and magnet schools contained in the plan.

What the District Court's plan essentially does is draw a line around an entire area and hold that no attempt will even be made to change the racial make-up of the enrollments there except through the voluntary transfer devices. As a result, no significant desegregation in any of the regular attendance area schools was projected at the time of the plan's adoption, or is likely to be achieved under a continuation of the present plan.

While there is nothing inherently improper about using the sub-district approach to an urban desegregation plan, that approach should not be allowed to create an all-black district in a way that prevents the use of all parts of the system in a plan of desegregating the whole district. See *United States* v. *Scotland Neck City Board of Education*, 407 U.S. 484 (1972). Plans were submitted to the District Court by the plaintiffs and the plaintiff-intervenors that would have brought significant desegregation to the schools within the East Oak Cliff area. Yet, the District Court seemed merely to draw a line around the problem and write it out of the system except for magnet schools, quality education programs, and transfers.

At the very least, the failure to do more to desegregate a major all-black section of Dallas requires a fuller explanation with findings of fact focussed on the particular problems that might be involved, rather than assuming too easily that nothing could be done. That is what the Court of Appeals would require.

C. *The Dallas Independent School District's Racially Dual System Was Created by State Law, Its Patterns of Racially Segregated Enrollment Have Never Yet Been Corrected, and a System-Wide Remedy Is Therefore Constitutionally Required.*

There is no doubt that the District Court in this case has found that the dual system of Dallas is uncorrected, and is system-wide. As the District Court stated when this case was originally brought:

> When it appears as it clearly does from the evidence in this case that in the Dallas Independent School District 70 schools are 90% or more white (Anglo), 40 schools are 90% or more black, and 49 schools with 90% or more minority, 91% of black students in 90% or more of the minority schools, 3% of the black students attend schools in which the majority is white or Anglo, it would be less than honest for me to say or to hold that all vestiges of a dual system have been eliminated in the Dallas Independent School District, and I find and hold that elements of a dual system still remain.

Tasby v. *Estes*, 342 F. Supp. 945, 947 (N.D. Tex. 1971), *revd. on other grounds*, 517 F.2d 92 (5th Cir. 1975), *cert. den.* 423 U.S. 939 (1975).

The District Court went on to refer to the required remedies for the various aspects of a dual system, such as faculty and staff desegregation, majority-to-minority transfer policies, the use of transportation, school construction and site selection, and noted:

> The Dallas School Board has failed to implement any of these tools or to even suggest that it would consider such plans until long after the filing of this suit and in part after the commencement of this trial.

Tasby v. *Estes, supra*, 342 F. Supp. at 948.

Many of these desegregation tools have since been implemented in Dallas under the compulsion of court order. In the area of student enrollment, however, no adequate plan has ever yet been ultimately approved or held by the District Court or by the Court of Appeals to have successfully brought the school system into constitutional compliance in that aspect of its operation. The statistics of student enrollment revealed by this record and projected under the District Court's plan show how extensive and widespread the segregation continues to be.

This case involves a large, urban school system in the South—one in which segregation existed in every aspect of its system under the mandate of state statutes. *Bell* v. *Rippy*, 146 F. Supp. 485, 487 (N.D. Tex. 1956). As such, it is on all fours with the school district involved in *Swann* v. *Charlotte-Mecklenburg Board of Education*, 402 U.S. 1 (1971), where the Chief Justice, speaking for the Court, stated, "The objective today remains to eliminate from the public schools all vestiges of state-imposed segregation." *Id.* at 15.

While cautioning that the basis for any judicial remedy is the unconstitutional dual system itself, this Court in *Swann* made clear that the use of racial school enrollment statistics was relevant to determining whether a plan was effectively dismantling a dual attendance system in the context of geographical attendance zones. *Swann* made it clear that the use of pairing and transportation of students to schools outside their areas of residence was an appropriate and sometimes necessary tool for eliminating racial attendance patterns, even though, "more often than not, these zones are neither compact nor contiguous; indeed they may be on opposite ends of the city." *Id.* at 27. It is clear that this Court in *Swann* contemplated a complete wiping out, to the extent feasible, of the segregated attendance patterns

that accompanied a school system whose segregation had been state imposed.

> All things being equal, with no history of discrimination, it might well be desirable to assign pupils to schools nearest their homes. But all things are not equal in a system that has been deliberately constructed and maintained to enforce segregation. The remedy for such segregation may be administratively awkward, inconvenient, and even bizarre in some situations and may impose burdens on some; but all awkwardness and inconvenience cannot be avoided in the interim period when remedial adjustments are being made to eliminate the dual school systems.

Id. at 28.

Swann did not impose a requirement for maintaining racial balance in the schools once their segregated attendance patterns have been fully corrected, but it does require their full correction. The full remedy clearly has never occurred in Dallas.

There is no inconsistency between the requirement of full elimination of segregated attendance in a system with state-imposed segregation, and the principle that the remedy must be directed to the constitutional wrong.[12] While the remedies of *Swann* may not be invoked to achieve objectives other than correcting the violation, the Court there recognized the problem of sorting out the entangled web of interrelated causes and effects of school and residential segregation. As the Court stated:

---

[12] Indeed, this Court has now made clear that the remedies of *Swann* apply as well to systems where the policy of segregation was not statutorily imposed and where the public school officials have not shown that the segregation was not caused by the unconstitutional policies and acts. *Columbus Board of Education* v. *Penick*, —— U.S. ——, 47 U.S.L.W. 4924 (1979); *Keyes* v. *School District No. 1*, 413 U.S. 189 (1973).

> People gravitate toward school facilities, just as schools are located in response to the needs of people. The location of schools may thus influence the patterns of residential development of a metropolitan area and have important impact on composition of inner-city neighborhoods.

Id. at 20-21.

We do know, as the Court pointed out, that decades of existence under a system of state-mandated school segregation keeps all other things from being equal. The school segregation in Dallas today exists as an extension of a state-imposed discriminatory system that has never been fully remedied. It would not be logical or fair to deprive the plaintiffs of a full remedy in this case just because the school board's failure to more promptly begin to devise remedies to deal with segregation in all of the various aspects of the system now raises doubts about which kind of segregation caused the other. To the extent that we cannot know just what segregation would or would not exist today but for the decades of state-imposed school segregation, we must assure a full remedy for those who have been constitutionally deprived. *Swann* and the other decisions of this Court require no less.

II.

Proper Principles of Appellate Review Left the Court of Appeals No Responsible Alternative But to Remand the District Court's Plan in Light of the Large Number of One-Race Schools and the Failure to Explain Any Adequate Justification for Falling So Far Short of the Elimination of the Segregated Student Enrollment in Most of the Dallas School System.

The Court of Appeals was faced with the review of a desegregation plan whose goal *must* be "to convert to a unitary system in which racial discrimination would be eliminated root and branch." *Green* v. *County School Board,* 391 U.S. 430, 437-438 (1968). Full compliance with this constitutional mandate, and thus the standards of any judicially ordered remedy, requires "a system without a 'white' school and a 'Negro' school, but just schools." *Green,* at 442.

In speaking to the requirements of a desegregation plan for a large, urban school system that had been segregated under state law, this Court in *Swann* v. *Charlotte-Mecklenburg Board of Education,* 402 U.S. 1, *reh. den.,* 403 U.S. 912 (1971), applied these one-race-school principles to systems such as Dallas. Recognizing that "the existence of some small number of one-race, or virtually one-race, schools within a district is not in and of itself the mark of a system that still practices segregation by law," the Court explicitly placed on the school districts, and on the district courts reviewing the adequacy of remedial plans, the obligation to "make every effort to achieve the greatest possible degree of actual desegregation and . . . thus necessarily be concerned with the elimination of one-race schools." *Swann,* at 26.

For purposes of district court review of school board proposals, and thus necessarily for purposes of proper re-

view of district court orders by the courts of appeal, the burden of justification of remaining one-race schools was placed upon the school boards:

> No *per se* rule can adequately embrace all the difficulties of reconciling the competing interests involved; but in a system with a history of segregation the need for remedial criteria of sufficient specificity to assure a school authority's compliance with its constitutional duty warrants a presumption against schools that are substantially disproportionate in their racial composition. Where the school authority's proposed plan for conversion from a dual to a unitary system contemplates the continued existence of some schools that are all or predominantly of one race, they have the burden of showing that such school assignments are genuinely nondiscriminatory. The court should scrutinize such schools, and the burden upon the school authorities will be to satisfy the court that their racial composition is not the result of present or past discriminatory action on their part.

Id. All of these strictures concerning one-race schools were made specifically in the context of an urban school system, like Dallas, with significant concentrations of residential segregation.

In the light of this specific language, the Court of Appeals in this case was faced with a plan that left at least 70 one-race schools—not just "some" or "some small number" as referred to in *Swann*. The nature of the plan itself raises numerous questions as to why many of these schools could not be integrated as easily as some of the others that had been, as described in earlier parts of this brief. The Court of Appeals had three years earlier directed the District Court to "immediately take the necessary steps, using and

adapting the techniques discussed in *Swann*," and stressed to that court that, "It is imperative that the dual school structure of the DISD be completely dismantled by the second semester of the 1975-76 academic year." *Tasby* v. *Estes*, 517 F.2d 92, 110 (5th Cir. 1975), *cert. den.* 423 U.S. 939.

It is hard to see how the Court of Appeals could have come down with a more moderate decision given the contrast between this Court's mandates in *Green* and *Swann* and the projected operation of the District Court approved plan for Dallas. The Court of Appeals stated the dilemma of reviewing such a plan:

> We cannot properly review any student assignment plan that leaves many schools in a system one race without specific findings by the district court as to the feasibility of these techniques. • • • There are no adequate time-and-distance studies in the record in this case. Consequently, we have no means of determining whether the natural boundaries and traffic considerations preclude either the pairing and clustering of schools or the use of transportation to eliminate the large number of one-race schools still existing.

Estes Pet. for Cert. 137a.

The Court of Appeals did not preclude the eventual justification of one-race schools if the findings, supported by the record, would show the infeasibility of desegregating them:

> The district court is again directed to evaluate the feasibility of adopting the *Swann* desegregation tools for these schools and to reevaluate the effectiveness of the magnet school concept. If the district court determines that the utilization of pairing, clustering, or the other desegregation tools is not practicable in the

DISD, then the district court must make specific findings to that effect.

Estes Pet. for Cert. 138a. Nor was the Court of Appeals unduly interfering with the District Court's discretion, or substituting its own findings of fact for those of the District Court. In the same decision, the Court of Appeals deferred to that discretion and upheld the District Court's dismissal of the separate Highland Park Independent School District as a defendant (Estes Pet. for Cert. 139a-141a) and its approval of the school board's selection of a challenged school site (Estes Pet. for Cert. 141a-145). The Court of Appeals further recognized that special considerations as to feasibility may apply to school districts made up predominantly of racial or ethnic minorities. Estes Pet. for Cert. 134a.

But when it came to the student assignment portion of the Dallas plan, the only alternative to the Court of Appeals' remand would have been the approval of a plan that left at least 70 one-race schools and, without adequate explanation, neglected to use apparently available desegregation techniques in several significant levels and areas of the Dallas school system.

Where school boards are under an obligation to come up with effective plans, and district courts are under an obligation to review those plans with an eye to effective enforcement of constitutional rights, courts of appeals necessarily have an obligation to review the district court decisions in a meaningful way. Without more information in the form of factual findings, there was no responsible way for the Court of Appeals in this case to approve a plan that is so woefully inadequate on its face "to achieve the greatest possible degree of actual desegregation" and be "concerned with the elimination of one-race schools." *Swann, supra,* 402 U.S. at 26.

The importance of the "proper allocation of functions between the district courts and the courts of appeals" in school desegregation cases has been noted by this Court. *Dayton Board of Education* v. *Brinkman I,* 433 U.S. 406, 409 (1977). Just as important as the deference due the district courts as triers of fact is the recognition of the function of the courts of appeals in these matters. The entire history of the Fifth Circuit's school desegregation litigation is itself a dramatic illustration of that importance. Time after time, reluctant district court judges have been held to the standards enunciated by this court only because of the dogged insistence of the Court of Appeals. The chain of cases developing the standards for school desegregation plans ultimately led to the Fifth Circuit's formulation of its model freedom of choice decree in *United States* v. *Jefferson County Board of Education,* 372 F.2d 836 (5th Cir. 1966), *adopted on reh. en banc,* 380 F.2d 385 (5th Cir. 1967), *cert. den.* 389 U.S. 840—a model decree born of its painful and frustrating experience in reviewing district court desegregation orders.

This case itself furnishes an illustration of the role of the court of appeals in requiring district court enforcement of desegregation. In the original case involving the desegregation of the Dallas schools, the court of appeals reversed a district court order dismissing the suit as premature. *Brown* v. *Rippy,* 233 F.2d 796 (5th Cir. 1956). The next year the court of appeals had to reverse the district court's second dismissal of the case, this time for failure to exhaust administrative remedies. *Borders* v. *Rippy,* 247 F.2d 268 (5th Cir. 1957). The district court was subsequently reversed again for approving a plan that would have allowed parents to choose whether to enroll their children in a segregated or an integrated school. *Boson* v. *Rippy,* 285 F.2d 43 (5th Cir. 1960). All of these cases, and others, involved district court orders by a judge who preceded

the district court judge who is currently handling the Dallas school case.

The present district court judge, however, has also demonstrated a reluctance to take this Court's admonitions in *Swann* seriously. The first plan entered in the present case was largely based upon the district court's reluctance to require the transportation of students. It sought to achieve desegregation through television—a cable television arrangement whereby white and black classrooms would be able to communicate with each other on a two-way audio-visual hook-up. In directing the Dallas school officials in 1971 to formulate a plan for achieving a unitary school system, the judge who is presently handling this case explained:

> Now all of this is not as grim as it sounds. I am opposed to and do not believe in massive cross-town bussing of students for the sole purpose of mixing bodies. I doubt that there is a Federal Judge anywhere that would advocate that type of integration as distinguished from desegregation. There are many many other tools at the command of the School Board and I would direct their attention to part of one of the plans suggested by TEDTAC which proposed the use of television in the elmentary grades and the transfer of classes on occasion by bus during school hours in order to enable the different ethnic groups to communicate. How better could lines of communication be established than by saying, "I saw you on TV yesterday," and, besides that, television is much cheaper than bussing and a lot faster and safer. This is in no sense a Court order but is merely something that the Board might consider.

Tasby v. *Estes*, 342 F. Supp. 945 (N.D. Tex. 1971). The school board based much of their plan at that time on the

district court's suggestion, and thus occasioned the first reversal of a plan in the present litigation. *Tasby* v. *Estes*, 517 F.2d 92 (5th Cir. 1975). It is this same reluctance to take *Swann* seriously that the Court of Appeals is dealing with in its present remand.

The essential effect of the Court of Appeals decision in this case is to require district courts to give serious and specifically-focussed consideration to the feasibility of eliminating one-race schools and achieving the greatest possible degree of actual desegregation necessary to dismantle racially created enrollment patterns as required by *Swann* and by use of the devices that *Swann* deals with. In one sense it is an exercise of the appellate role that complements the role of the trial court by calling upon it to meet its function as trier of fact in a responsible manner.

This is the kind of guidance and insistence on effective enforcement of constitutional rights and obligations, as set forth by this Court, that characterizes the tradition of the Court of Appeals for the Fifth Circuit in this long and painful line of cases. At the very least, this moderate order of the Court of Appeals should be affirmed to allow reconsideration of the Dallas plan in this context. To do otherwise would be to undermine important principles of responsible appellate review and harm the ability of the courts of appeal to carry out their important function in our federal judicial system.

CONCLUSION

The decision of the Court of Appeals should be affirmed. It is particularly important to indicate once again this Court's adherence to the principles of *Brown I and II*, *Green* and *Swann* upon which the Court of Appeals is here insisting.

Beyond the affirmance of that decision, this Court should make clear that those principles, as applied to the Dallas Independent School District, require greater efforts and results in eliminating segregated school attendance patterns, and use of the *Swann* techniques in the absence of "legitimate local problems" that in fact make those techniques infeasible or inapplicable in particular instances in the Dallas school desegregation process.

NATHANIEL R. JONES
1790 Broadway
New York, New York 10019

E. BRICE CUNNINGHAM
Cunningham, Greenidge & Gaines
2606 Forest Avenue
Suite 216-219
Dallas, Texas 75215

MERLE W. LOPER
246 Deering Avenue
Portland, Maine 04102

Attorneys for Respondents-Intervenors

Of Counsel:

LOUIS R. LUCAS
Ratner, Sugarmon, Lucas, Salky & Henderson
625 Commerce Title Building
Memphis, Tenn. 38103

Certificate of Service

I, Nathaniel R. Jones, one of the counsel for the Respondents, certify that a copy of the foregoing Brief was served upon the following counsel of record by regular mail by postage prepaid, this 20th day of July, 1979.

Nathaniel R. Jones

MR. EDWARD B. CLOUTMAN, III
8204 Elmbrook Drive, Suite 200
P.O. Box 47972
Dallas, Texas 75247

MR. MARK MARTIN
1200 One Main Place
Dallas, Texas 75250

MS. VILMA S. MARTINEZ
Mexican-American Legal Defense and Educational Fund
28 Geary Street
San Francisco, Calif. 94108

MR. LEE HOLT, *City Attorney*
New City Hall
Dallas, Texas 75201

MR. JOHN BRYANT
8035 East R.L. Thornton
Dallas, Texas 75228

MR. JAMES G. VETTER, JR.
555 Griffin Square Building—Suite 920
Dallas, Texas 75202

MR. THORNTON E. ASHTON, III
Dallas Legal Services Foundation, Inc.
912 Commerce Street—Room 202
Dallas, Texas 75202

MR. ROBERT H. MOW, JR.
MR. ROBERT L. BLUMENTHAL
3000 One Main Place
Dallas, Texas 75250

MR. JAMES A. DONOHOE
1700 Republic National Bank Building
Dallas, Texas 75201

MR. MARTIN FROST
777 South R.L. Thornton Freeway—Suite 120
Dallas, Texas 75203

MR. JAMES T. MAXWELL
4440 Sigma Road—Suite 112
Dallas, Texas 75240

MR. WARREN WHITHAM
412 Adolphus Tower
Dallas, Texas 75202